In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 335

DONALD CROOM BEATTY, JR., PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A) is reported at 377 F. 2d 181.

JURISDICTION

The judgment of the court of appeals was entered on May 2, 1967. A petition for rehearing was denied on June 12, 1967. The petition for a writ of certiorari was filed on July 8, 1967. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

1. Whether it was error to admit corroborative testimony by federal agents as to conversations between petitioner and a government informer overheard with the informer's consent.

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Amendment rights under *Massiah v. United States*, 377 U.S. 201. However, as the majority of the court

of appeals held below (Pet. App. 11–17), this case

Petitioner relies on *McLeod* v. *Ohio*, 381 U.S. 356, reversing *per curiam* *State* v. *McLeod*, 1 Ohio St. 2d 60, 203 N.E. 2d 349, and *Hancock* v. *White*, C.A.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

RALPH S. SPRITZER,
Acting Solicitor General.
FRED M. VINSON, JR.,
Assistant Attorney General.
BRANNON BUSSEY,
ROGER A. PAULEY,
Attorneys.

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